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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,529	10/11/2001	Jeffrey R. Peterson	9750	1497

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EXAMINER

ALPHONSE, FRITZ

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 08/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/976,529

Applicant(s)

PETERSON, JEFFREY R.

Examiner

Fritz Alphonse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 11, 15, 17, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, as to claims 11 and 15, the limitations “an electronic shelf label (ESL) comprising:...”. It is not clear as to what the applicant means by electronic shelf label (ESL).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-13, 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brieche (U.S. Pat. No 5,977,998) in view of Park (U.S. Pat. No. 5,790,214).

As to claims 11 and 15, Brieche (figs. 1-8) shows a display system for electronic label (i.e., ESL; col. 3, lines 15-24) comprising: a first display (61a) disposed on a first side of the ESL (note display 61a at the left side) for displaying first information about an item; a second display (61b) separate from the first display and disposed on a second side of the ESL (note display 61b

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at the right side) for displaying information. Briechle discloses memory device for storing the information to be displayed (col. 2, lines 5-17) and at least one ESL identification number (Briechle teaches about identification of label 15 representing a unique address; col. 4, lines 35-54); communication circuitry for receiving commands (note (fig. 6) the push-button 5 to receive commands from a customer; col. 4, lines 40-47); and ESL circuitry (fig. 6) for individually causing the first display (61a) to display the first information and the second display (61b) to display the second information in response to the commands. See column 4, lines 15-35; col.5, lines 40-47.

Briechle does not explicitly disclose a second display disposed on a second side opposed to the first side of the ESL.

However, in the same field of endeavor, Park (figs. 2-3) show a LCD display device comprising a dual-faced portion for displaying information on a first display disposed on a first side and a second display disposed on a second side opposed to the first side of a cash register.

Therefore, this is very obvious. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Briechle's display system by adding a dual-faced LCD, as disclosed by Park. Doing so would allow both a clerk and a customer to view the display at the same time.

As to claims 12-13, Briechle discloses an ESL, wherein the first information equals the second information; and wherein a single ESL identification number is associated with both of the first and second displays (col. 10, lines 34-39).

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As to claim 16, Briechele does not teach about and ESL mounted perpendicular to a shelf rail.

However, this is very obvious as evidence by Marvin (U.S. Pat. No. 6,069,596), applicant admitted prior art (see col. 6, lines 34-36).

As to claims 17-22, method claims 17-22 correspond to apparatus claims 11-13; therefore, they are analyzed as previously discussed in claims 11-16 above.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Briechele in view of Park as applied to claim 1 above, and further in view of IBM (NN7797736).

As to claim 14, Briechele does not teach about a first ESL identification number is associated with the first display and a second ESL identification number different from the first ESL identification number is associated with the second display.

However, IBM (see disclosure text and figure 3) teaches that "double sided display card 26 is fixed within casing 20 and exhibits different numerals on both sided of card 26...".

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace Briechele's ESL display with the remote display device, as disclosed by IBM. Doing so would be necessary to a user at a grocery checkout counter, with the items sold being checked out from either side of the terminal or from the rear.

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***Response to Amendment***

6. The reply filed on 3/22/04 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the remarks filed did not address the art rejection of the last Office Action mailed on 11/21/03. Therefore, the applicant is advised to provide a full and complete response to the last Office Action.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to: (703) 872-9306** for all formal communications.

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (703) 308-8534. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (703) 305-9595.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fritz Alphonse

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August 5, 2004

  
Guy J. LAMARRE  
PRIMARY EXAMINER